

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

KEITH THOMAS, 1:06-CV-00481-OWW-DLB

Plaintiff,

**ORDER DENYING PLAINTIFF LEAVE TO
PROCEED IN FORMA PAUPERIS
(Doc. 7)**

U. S. DEPARTMENT OF EDUCATION,
et al..

**ORDER REQUIRING PLAINTIFF TO PAY
\$350.00 FILING FEE IN FULL WITHIN
THIRTY DAYS OR ACTION WILL BE
DISMISSED**

Defendants.

a state prisoner proceeding pro se in this civil action
06, plaintiff filed the complaint in this action and on
attesting to his inability to pay the filing fee.

28 U.S.C. § 1915 governs proceedings in forma pauperis. Section 1915(g) provides that “[i]n no event shall a prisoner bring a civil action . . . under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” To date, plaintiff has filed sixty-nine actions in the United States District Court for the Eastern District of California and has had three or more actions dismissed as frivolous, as

1 malicious, or for failing to state a claim upon which relief may be granted.¹ Thus, plaintiff is subject
2 to 28 U.S.C. § 1915(g) and is precluded from proceeding in forma pauperis unless plaintiff is, at the
3 time the complaint is filed, under imminent danger of serious physical injury.

4 The Court has reviewed plaintiff's complaint and finds that plaintiff has alleged no facts that
5 support a finding he is, at this time, under imminent danger of serious physical injury. Accordingly,
6 plaintiff may not proceed in forma pauperis, and must submit the appropriate filing fee in order to
7 proceed with this action.

8 Based on the foregoing, it is HEREBY ORDERED that:

9 1. Pursuant to 28 U.S.C. § 1915(g), plaintiff is denied leave to proceed in forma
10 pauperis in this action; and
11 2. Plaintiff shall pay the \$350.00 filing fee in full within thirty (30) days or this action
12 will be dismissed, without prejudice.

13 IT IS SO ORDERED.

14 Dated: February 1, 2007
15 3c0hj8

/s/ Dennis L. Beck
16 UNITED STATES MAGISTRATE JUDGE
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27 ¹ Among the dismissals suffered by plaintiff that count as strikes under 1915(g) are Thomas v. Galaza, 1:00-
28 cv-05345-AWI-LJO PC (dismissed for failure to state a claim and/or as frivolous on 6/26/00), Thomas v Kim, 1:99-
cv-06553-AWI-HGB PC (dismissed for failure to state a claim on 8/29/00), and Thomas v. Galaza, 1:00-cv-05348-
OWW-LJO PC (dismissed for failure to state a claim on 11/14/00).